

EXHIBIT D



DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

The Administrator
Washington, D.C. 20201

MAY 12 1988

Ms. Marjorie T. Stewart, Assistant Secretary
Office of Family Security
Department of Health and Human Resources
P.O. Box 94065
Baton Rouge, Louisiana 70804-4065

Dear Ms. Stewart:

I am informing you of my decision that the Louisiana reimbursement plan for payment of prescription drugs submitted under transmittal number 87-33 is not in accordance with the applicable Federal laws and regulations. As a result, this amendment is not approvable.

The current Medicaid drug regulations at 42 CFR 447.301 require the State agency to establish Estimated Acquisition Cost (EAC) levels at "the agency's best estimate of the price generally and currently paid by providers for a drug" The State agency plans to use nondiscounted Blue Book published Average Wholesale Price (AWP) in establishing these EAC levels. We believe that there is a preponderance of evidence that demonstrates that AWP significantly overstates the price that pharmacy providers actually pay for drug products and, thus, is not "the price generally and currently paid by providers." The continued use of AWP results in significant potential overpayments to pharmacy providers. Consequently, the proposed State plan amendment violates 42 CFR 447.301 and section 1902(a)(30) of the Social Security Act, requiring that State payments comply with efficiency, economy, and quality of care. Further, the proposed State plan amendment contains language that establishes that the State agency will be the only one to determine which AWP price best reflects availability to providers, and "the State agency's determination of availability shall not be subjugated by any other group." This position is in conflict with 42 CFR 447.332. Further, this language would appear to preclude the Health Care Financing Administration from discharging any of its rightful activities regarding determination of drug availability.

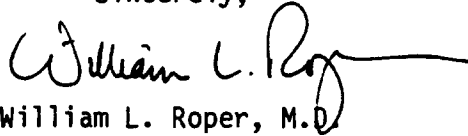
Based on the foregoing, and after consulting with the Secretary, as required by 45 CFR 201.3(c), I am disapproving this amendment, transmittal number 87-33.

*das
dcp*

Page 2 - Ms. Marjorie T. Stewart, Assistant Secretary

If you are dissatisfied with this determination, you may petition for reconsideration of this issue within 60 days after the date of the receipt of this letter, in accordance with the procedures set forth at 45 CFR 201.4. If you wish to discuss the implications of this disapproval further, please contact Mr. Jerry Sconce, Regional Administrator, Health Care Financing Administration, Room 2000, 1200 Main Tower Building, Dallas, Texas 75202.

Sincerely,

A handwritten signature in black ink, appearing to read "William L. Roper", with a long horizontal flourish extending to the right.

William L. Roper, M.D.
Administrator